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ABSTRACT

Noting that fundamental reform of child support policy that builds on state and local innovations is essential, this report provides recommendations for state policymakers and advocates to address deficiencies in child support enforcement. The recommendations are in the areas of resources, paternity, and outreach. They include: (1) establishing caseload standards; (2) maximizing federal funding; (3) providing training for child support enforcement workers; (4) enacting the Uniform Interstate Family Support Act; (5) establishing hospital-based and post-hospital voluntary acknowledgement of paternity; (6) establishing outreach about paternity; (7) expediting procedures for contested paternity; (8) expediting procedures for locating absent parents; (9) centralizing monitoring and enforcement; (10) making state licenses contingent on payment of support; (11) identifying and addressing barriers to access; (12) establishing interagency linkages; and (13) working with noncustodial parents. (MDM)

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CHILD SUPPORT REFORM:

A STATE CHECKLIST FOR CHANGE

By Nancy Ebb

June 1994

Children's Defense Fund

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CDF is a unique organization. CDF focuses on programs and policies that affect large number of children, rather than on helping families on a case-by-case basis. Our staff includes specialists in health, education, child welfare, mental health, child development, adolescent pregnancy prevention, family income, and youth employment. CDF gathers data and disseminates information on key issues affecting children. We monitor the development and implementation of federal and state policies. We provide information, technical assistance, and support to a network of state and local child advocates, service providers, and public and private sector officials and leaders. We pursue an annual legislative agenda in the U.S. Congress and in states where we have offices. CDF educates hundreds of thousands of citizens annually about children's needs and responsible options for meeting those needs.

CDF is a national organization with roots in communities across America. Although our main office is in Washington, DC, we reach out to towns and cities across the country to monitor the effects of changes in national and state policies and to help people and organizations concerned with what happens to children. CDF maintains state offices in Minnesota, Ohio, and Texas, and local project offices in Marlboro County (South Carolina), the District of Columbia, Greater Cleveland, Greater Cincinnati, and New York City. CDF has developed cooperative projects with groups in many states.

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INTRODUCTION

Children need better child support enforcement. Across the country, millions of children pay when their parents do not.

One in every four children now lives in a family with only one parent in the home. Too many of these children cannot rely on regular support from their noncustodial parent. Census Bureau data tell us that only a slim majority of children living in single-parent homes even have a child support order. And even children lucky enough to have a support order cannot rely on child support to help put a roof over their heads or food on the table: of those children due support in 1989, half received no support at all, or less than the full amount due.

Since 1975, federal law has provided federal matching dollars so that states can operate child support enforcement agencies. These agencies help families on welfare, and non-welfare families that ask for help. A recently released Children's Defense Fund study[1] of how these agencies work for children found states have made some progress in improving child support enforcement. There is a wide range of state performance, with some states leading the way in innovations for children. **Yet despite nearly a decade of reform efforts, our child support system is failing to deliver on its promise: to ensure that parental support is a regular, reliable source of income that helps meet a child's daily needs.** On the most basic of measures -- the percentage of cases served by state agencies that have at least **some** support collected -- agencies did not work well for children: only 18.7 percent of cases served had even a **partial** child support collection.

We can do better than this. But fundamental reform that builds on state and local innovations is essential. In the long run, many child support advocates believe that reform must include having a federal agency such as the Internal Revenue Service collect and enforce child support obligations. This would free up overburdened state agencies to work on what they do best: establishing paternity and support obligations. Advocates also support a child support assurance program, to provide a safety net for children when child support does not.[2]

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[1]Children's Defense Fund, **Enforcing Child Support: Are States Doing the Job?,** May 1994, available through T'Wana Lucas at CDF, 25 E St., N.W., Washington, D.C. 20001; (202) 662-3542.

[2]For a detailed blueprint of both long-term and mid-range proposals for national child support reform prepared by a group of child support advocates, see **A Vision of Child Support Reform.** For a discussion of child support assurance, see Quiroz and Ebb, **Child Support Assurance: Making Child Support Work for Children.** Both publications are available through T'Wana Lucas at CDF.

In the short run, states and localities, as well as the federal government, can make an immediate difference for children. This checklist describes key reforms that should be considered by state policymakers and advocates.

ENSURING ADEQUATE RESOURCES AND LEVERAGING FEDERAL FUNDS

Across the country, child support agencies often cannot do the job because their workers -- however well-intentioned -- are undertrained and overwhelmed with too many cases. CDF's fifty-state review of child support data found that there is often a striking link between state investment (caseload per worker and amounts expended per case) and performance. States can ensure that their agencies have the resources to do the job right by:

✓ **Establishing caseload standards.** States can make sure agencies have the resources to do the job right by setting caseload standards (requiring the child support agency to report to the legislature on the number of workers needed to meet federal performance and timeliness standards, and appropriating funds to meet this need).

Very favorable federal matching funds are available to help achieve this goal. For every 34 cents the state invests in child support administration, including hiring workers, the federal government will provide 66 cents in matching funds. In addition, if child support is collected on behalf of AFDC recipients, the state and federal government keep the child support to offset the cost of providing welfare to the family (after the first $50 in current support is passed through to the family). The federal share of child support collections on behalf of AFDC recipients is recycled to the state in the form of additional incentive payments. Thus, any state investment in child support leverages far greater investments in the form of federal dollars.

✓ **Reinvesting child support incentive payments in the system.** In some states, federal child support incentive payments made to the states (based on how cost-effective the state child support agency has been) revert to the state's general fund. In others, these incentive payments are re-invested in child support enforcement. A requirement that this money be targeted for child support would provide funding for increased staff or program innovations.

✓ **Maximizing federal funding for expedited decisionmaking.** Federal law sets standards for how quickly contested child support cases must be resolved. These timelines apply whether the case is heard in court by a judge or in an administrative agency by a hearing officer. In many states, the system responsible for hearing the cases is too overloaded to meet these timelines. This means both real harm to children waiting for child support, and failure to comply with federal law. Regardless of whether a judge or an administrative hearing officer is responsible for deciding these cases, it is essential that the system have enough resources to move

cases along swiftly, so that children do not suffer when their cases languish without a decision. HHS interpretations of federal law give states an incentive to solve the problem by adding more decisionmakers to an administrative, rather than a court-based system: HHS takes the position that federal matching funds are not available to pay the salary of a judge deciding child support cases. However, federal matching funds **are** available if "expedited procedures" are provided by an administrative law judge hired by the child support agency.

✓ **Leveraging federal dollars for automation.** Federal law requires states to set up automated child support tracking and enforcement systems, and provides federal matching funds at a 90 percent rate for doing so. Computerized systems are important because when routine tasks are automated it frees up workers to process more difficult cases. **States must have these systems running by September 1995, when the 90 percent match rate expires. It appears that a number of states are in danger of not meeting this deadline.**

✓ **Training workers.** Many workers lack the training they need to work effectively. Explicit training requirements, including orientation and periodic in-service training, and allocation of funds for staff trainers, can significantly improve worker efficiency. Federal matching funds (at the base rate for administrative expenditures) are available for worker training.

INTERSTATE ENFORCEMENT

✓ **Enacting the Uniform Interstate Family Support Act.** To facilitate interstate enforcement of paternity and child support, each state should have in effect laws which adopt the officially approved version of the Uniform Interstate Family Support Act (UIFSA) adopted by the National Conference of Commissioners on Uniform State Laws in August 1992. **To avoid interstate conflicts, each state should follow the UIFSA format verbatim.**

STRENGTHENING PATERNITY ESTABLISHMENT

Today, more than one out of every four children is born out of wedlock. For children born outside of marriage, the legal establishment of paternity is an essential first step before the child can obtain an order for child support. Establishing paternity also makes a child potentially eligible for many other types of income through the father, including Social Security survivors' and disability benefits, health insurance, Veterans' benefits, inheritance, unemployment insurance, and worker's compensation.

Several measures can significantly improve states' paternity establishment record:

✓ **Hospital-based voluntary acknowledgment of paternity.** The federal Omnibus Budget Reconciliation Act of 1993 requires states to begin hospital-based efforts to obtain voluntary acknowledgments of paternity at the time of a child's birth. This new requirement is based on the experience of states like **Virginia** and **Washington,** which significantly improved their paternity rates using hospital-based acknowledgment programs. Virginia administrators told CDF that in the first two years of the program, they established more paternities than they otherwise had in fifteen years of paternity efforts.

In implementing this new federal requirement, it is important to ensure that there are good partnerships between state child support agencies and hospitals; that workers are carefully trained so that they are committed to making the program succeed; that a modest payment is available to cover the costs of hospital paperwork; and that the program is available to **all** children, not just those currently served by the state child support agency.

Additionally, to avoid the need for later court proceedings, state law should provide that these voluntary acknowledgments have the binding effect of a final judgment once a brief "cooling off period" (such as 30 days) has elapsed. The due process rights of the mother and the putative father should be protected by ensuring that both are informed, orally and in writing, of the rights and responsibilities they incur by acknowledging paternity. Fathers who have acknowledged paternity should only be able to revoke that acknowledgment once the "cooling off period" has passed if they later go to court and establish that the acknowledgment was the result of fraud, duress, or material mistake of fact.

✓ **Post-hospital provisions for voluntary acknowledgment of paternity.** Many new mothers are discharged quickly from the hospital. If the father is unable or unwilling to acknowledge paternity at the time of birth, it is important to have a simple, binding process for voluntarily acknowledging paternity at some later date (for example, at the birth records office). It is important that this acknowledgment have the force and effect of a judgment, so that other states are required to accept and enforce the acknowledgment. **Virginia** gives voluntary acknowledgments the force of judgments.

✓ **Outreach about paternity.** Many parents do not know about the long-term benefits of establishing paternity, even if in the immediate future the father has little income available to pay child support. They do not know how to establish paternity, or where to go for help. Some states and localities emphasize outreach through health providers, by outstationing child support workers at sites where parents will be

receptive to information (for example, hospitals, maternal and child health clinics, WIC offices, or welfare offices), or by giving designated workers responsibility for conducting intensive paternity interviews. Each locality could be required to develop an outreach and public education plan for approval by the state that is based on local needs and resources, and that targets fathers as well as mothers.

✓ **Expedited procedures for contested paternity.** If the putative father denies paternity, the case should be resolved quickly to ensure that he does not disappear and that the child obtains a resolution of parentage and the obligation to support as quickly as possible. Federal law gives states the option of using expedited procedures (for example, using hearing officers hired by the child support agency) to establish paternity. Such expedited procedures are important to make sure that paternity cases are not lost in the shuffle. The state agency should be required to **track and report how quickly** these cases are resolved.

✓ **Default paternity procedures.** Contested cases may drag on interminably if the putative father fails to appear in court or refuses to submit to genetic testing that has been ordered. Judges and hearing officers should have authority to make a default determination of paternity if the putative father has been properly notified and fails to comply.

✓ **Simplified use of genetic testing.** Highly reliable genetic testing is now available to establish that a putative father is the real father, or to exclude the possibility that he is the parent. State law should reflect this scientific advance by:

✓ **Giving the child support agency authority to provide tests before a contested process begins.** Frequently, the conclusive proof of paternity provided by genetic tests can persuade a father to acknowledge paternity voluntarily without going through costly litigation. The child support agency should have authority to administratively order and provide these tests **before** there is a contested process so that paternity can be resolved without litigation where possible. The state statute should be clear about who assumes costs if either parent is indigent. Because paternity is such an essential step in the child support process, CDF believes that **financial help should be readily available so that the cost of testing is not a bar to establishing paternity.** Federal matching funds are available at a 90 percent rate for paternity laboratory costs.

✓ **Simplifying admissibility of genetic testing.** To avoid complex, costly, and time-consuming expert testimony where it is not needed, the putative father should be notified of genetic testing results in advance of a trial. If he does not object to admissibility of the tests within a stated period, the tests should be admissible without the need for expert testimony.

✓ **Creating a presumption of paternity.** In cases where genetic testing yields a high probability of paternity (for example, a 99 percent probability of parentage), the law should create a **presumption** of paternity, and shift the burden of disproving paternity to the putative father.

✓ **Using an appropriate burden of proof.** Historically, paternity was often established in a criminal proceeding. In this context, the burden of proof was "beyond a reasonable doubt" -- the appropriate test in a criminal case. Now that paternity proceedings have been "decriminalized," the burden of proof should be modified accordingly.

✓ **Models for young fathers.** States should consider establishing programs that encourage young fathers to acknowledge paternity even if they have limited earning capacity because they are still in school or do not have job training. In **Indianapolis, Indiana** a model program has had encouraging results with allowing young fathers to acknowledge paternity and enter into a contract under which they will not pay child support while they are pursuing approved education or training available from resources in the community. The idea of this contract is that it will give the father the long-term capacity to support his child. If he violates the terms of the contract, he is held liable for child support.

LOCATING ABSENT PARENTS

It is very difficult to keep track of absent parents who move or change jobs frequently. This means that children often go without support because the state cannot find the parent. Several measures can significantly improve location efforts:

✓ **Employer reporting of new hires. Washington state,** followed by others, requires selected employers to report information about new hires to the state. This information is matched against a central registry of child support orders. It has proven to be cost-effective and efficient, and has made Washington state one of the national leaders in locating non-custodial parents. This is a model that should be replicated on the national level, with employers reporting new hires to a central national registry of support orders.

✓ **Use of credit reporting agencies.** States like **Delaware** have found that selective use of credit reporting agencies can provide child support workers with valuable location information.

✓ **Access to criminal justice information.** Criminal justice agencies have access to national computerized criminal justice information that can provide valuable information about where to find an absent parent. **Oregon's** child support agency is

designated as a criminal justice agency, which gives the agency access to this information.

✓ **Access to other state data bases.** State record systems like motor vehicles, employer wage reporting, licensing, and state tax records, can provide important information about where an absent parent is and whether he or she has income or assets that can help support a child. This state child support enforcement agency should be able to do automated "batch matches" between its records and these systems. It should also be able to make on-line computer inquiries about individual cases where appropriate.

STRENGTHENING ENFORCEMENT

A number of enforcement tools can improve collections, underscore the seriousness of the child support obligation, and send a message about the consequences of non-support. These include:

✓ **Centralized monitoring and enforcement.** Massachusetts, one of the top collectors of child support in the country, has emphasized a highly centralized, automated system of collecting support, locating income and resources, and automatically triggering enforcement as soon as assets are identified. Establishing a central state registry with capabilities similar to Massachusetts' would be a key step towards improving state enforcement. Such a registry should have the capacity to collect child support (through wage withholding if the parent is a salaried worker, or direct payment if the parent is self-employed); disburse child support collections promptly to the custodial parent; routinely match child support cases against other state data bases; to monitor cases (at a minimum on a monthly basis) to determine whether support payments have been made; trigger enforcement action **automatically** when there is a lapse in payment; and administratively impose enforcement mechanisms such as wage withholding in appropriate cases.

✓ **Automatic liens and post-judgment seizures.** Agencies should have administrative authority to make post-judgment seizures of assets such as bank accounts without the need for a separate court order. The **Massachusetts** agency is authorized to automatically seize or impose a lien on assets as soon as the system identifies them (for example, routine liens on bank accounts when child support is in arrears). Since the state uses "batch matches" to match cases with back support owed against data about assets such as bank accounts, the authority to proceed automatically means that the state can take efficient, low-cost enforcement actions in a large number of cases.

✓ **Making state licenses (e.g., professional and hunting or recreational licenses) contingent on paying support. Vermont**, for example, provides that the state will not issue a license to an applicant who is seriously behind on child support. The state **will** issue a license if the applicant negotiates and follows a satisfactory payment schedule for catching up on back support -- an important provision because it ensures that the child is receiving support and that the noncustodial parent has a way of generating income.

✓ **Reporting arrearages to credit agencies.** Some states, including **Florida,** routinely report child support arrears that meet a certain threshold to credit reporting agencies. Non-custodial parents know that failure to pay child support may adversely affect their credit rating.

✓ **Reaching other forms of income.** States are expanding their definition of income that can be reached to collect child support -- a desirable goal, so long as it does not deprive non-custodial parents of subsistence benefits. HHS reports that **Texas** authorizes attachment of worker's compensation benefits, while **Camden County, New Jersey** seizes assets reported on federal 1099 forms. **Minnesota, Indiana** and **Florida seize lottery winnings to reimburse for back child support.**

✓ **Enforcing medical support orders.** State agencies are required to seek health insurance coverage for children, in addition to a cash child support award, if insurance is available to the non-custodial parent at reasonable cost. Federal law passed in 1993 requires states to ensure that such orders are honored (for example, by giving the state agency authority to order an employer to add a child to a non-custodial parent's health plan, and begin deducting premiums from wages, if the parent does not provide prompt evidence that the child is covered; and requiring insurers to deal with custodial parents if a child is covered through a non-custodial parent's plan). All states should have these provisions in place.

IMPROVING OUTREACH

Many families -- including those required to cooperate with child support enforcement -- do not understand the benefits of child support, or how the system works. Lack of information is one of the greatest barriers to effective enforcement. When families understand why child support is important, and what the process is, they are far more likely to provide essential information and help pursue support aggressively. To reach these families, each state should:

✓ **Identify and address barriers to access.** States should identify and propose solutions to barriers such as location of offices, hours of operation, transportation and language difficulties.

✓ **Ensure welfare/child support coordination.** Each state agency should develop a plan for how AFDC and child support intake will be coordinated to ensure that each AFDC applicant required to cooperate with child support will receive thorough information about his or her child support rights and responsibilities. The plan should provide for training of AFDC workers about child support or for outstationing of child support staff at AFDC intake locations (a practice used by **Connecticut**). **Workers should be trained about how to explain the long-term benefits of child support, and also about how to identify and address domestic violence problems that may put a child or custodial parent at risk.**

✓ **Establish interagency linkages.** Each state should identify other programs that serve a large proportion of families likely to benefit from child support enforcement (e.g., Food Stamps, Head Start, WIC, subsidized child care) and establish outreach linkages so that these programs help inform families about the availability of child support help.

✓ **Raise public awareness.** Even the best array of enforcement techniques will not truly make a difference until there is broad agreement that failure to support a child is wrong. Just as Mothers Against Drunk Driving built consensus that it is wrong to drink and drive, it is essential for child support advocates and policymakers to raise public awareness about child support through media campaigns and ongoing public dialogue.

A CHILD SUPPORT SAFETY NET

✓ **Child support assurance pilot programs.** Child support assurance is gaining increasing acceptance as a way of guaranteeing that children have a child support safety net. Child support assurance protects children by ensuring that they receive a minimum level of support from their noncustodial parent. If the noncustodial parent fails to pay at least this minimum amount of support, government makes up the difference, and then pursues the noncustodial parent for reimbursement. The government does not pay any benefit if the noncustodial parent pays at least the minimum guaranteed amount.

Virginia is piloting a small demonstration of guaranteed child support for former AFDC families. Other states are taking a close look at the concept, and some (such as **Massachusetts**) have done sophisticated cost projections. There is pending federal legislation in Congress that would authorize federal funding for state pilot programs. State demonstration programs can provide an important service by building a successful track record and helping children in the process.

HELPING PARENTS PAY

✓ **Working with noncustodial parents.** Some noncustodial parents do not pay their child support because they are unemployed, or underemployed. Parents' Fair Share, authorized by the Family Support Act of 1988, uses limited amounts of JOBS funds to help noncustodial parents get jobs and improve their long-term ability to support their children. Fair Share demonstration programs show preliminary indications that peer support groups and assisted job search are particularly helpful for noncustodial parents. These demonstrations are still young. There are not yet definitive assessments of their long-term success in boosting earnings of noncustodial parents and translating those earnings into child support. However, they are worth monitoring as one way of helping low-income noncustodial parents support their children.

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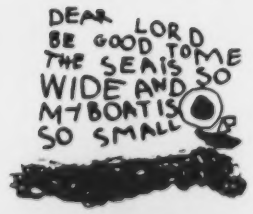

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